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SENATE BILL 2258 By
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HOUSE BILL 2547
By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 56 and Title 71, relative to recoupment of payments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 32, Part 2, is amended by adding the following as a new section to be appropriately designated:

Section 56-32-239.

(a)(1) If authorization is given and a medical, surgical or other diagnostic claim is adjudicated by a health maintenance organization or its agent to any medical services provider for care to be delivered to a covered beneficiary under any evidence of coverage issued by the health maintenance organization, including those organizations participating in the TennCare program, collectively referred to as "organization," then such organization acting directly or by delegation through an agent acting on behalf of the organization shall not subsequently rescind or modify that authorization or deny the authorized payment to the medical services provider for the authorized service after the provider renders the authorized service in good faith and pursuant to the

authorization, except for payments made as a result of the provider's misrepresentation or fraud.

(a)(2) If the bureau of TennCare provides notice to the health maintenance organization or its agent that a person is eligible to participate in the TennCare program, and if based on good faith reliance on such information the health maintenance organization makes a payment to a medical services provider for providing medical services to such person enrolled in the TennCare program; and if the bureau of TennCare later rescinds the eligibility for such person; then the bureau of TennCare shall remain liable to the health maintenance organization for any amount the health maintenance organization paid to the provider for such medical services. The bureau of TennCare shall not be liable when the eligibility is rescinded in the case of fraud or death as defined in the contract. The bureau of TennCare shall not be liable due to an error or delay on the part of the managed care organization or its agents in processing eligibility information received from the bureau of TennCare.

(b) Notwithstanding the provisions of subsection (a), any organization may request the provider to adjust or correct an adjudicated claim to correct incorrect data elements, including incorrect billing units, incorrect national drug code (NDC) numbers and incorrect provider identification numbers submitted in error and in good faith by the medical services provider. An organization shall provide the medical services provider an opportunity to correct claims submitted by the medical services provider in good faith. If the provider does not correct the adjudicated claim requested within thirty (30) days of receipt of the request, then the organization may rescind, modify or recoup the funds paid on the requested claim and shall not be in violation of this section.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following as a new section to be appropriately designated:

Section 56-7-2363.

(a)(1) If authorization is given and a provider claim is adjudicated by a health insurer or its agent to any medical services provider for care to be delivered to a covered beneficiary under any individual, franchise, blanket or group health insurance policy, medical service plan corporation contract, hospital service corporation contract, hospital and medical service corporation contract or fraternal benefit society, the health insurer acting directly or by delegation through an agent acting on behalf of the health insurer shall not subsequently rescind or modify that authorization or deny the authorized payment to the medical services provider for the authorized service after the provider renders the authorized service in good faith and pursuant to the authorization, except for payments made as a result of the provider's misrepresentation or fraud.

(a)(2) If the bureau of TennCare provides notice to the health insurer or its agent that a person is eligible to participate in the TennCare program, and if based on good faith reliance on such information the health insurer makes a payment to a medical services provider for providing medical services to such person enrolled in the TennCare program; and if the bureau of TennCare later rescinds the eligibility for such person; then the bureau of TennCare shall remain liable to the health insurer for any amount the health insurer paid to the provider for such medical services. The bureau of TennCare shall not be liable when the eligibility is rescinded in the case of fraud or death as defined in the contract. The Bureau of TennCare shall not be liable due to an error or delay on the part of the managed care organization or its agents in processing eligibility information received from the bureau of TennCare.

(b) Notwithstanding the provisions of subsection (a), any organization may request the medical services provider to adjust or correct an adjudicated claim to correct incorrect data elements, including incorrect billing units, incorrect national coding numbers and incorrect provider identification numbers submitted in error and in good faith by the provider. An organization shall provide the medical services provider an opportunity to correct claims submitted by the provider in good faith. If the medical services provider does not correct the adjudicated claim requested within thirty (30) days of receipt of the request, then the organization may rescind, modify or recoup the funds paid on the requested claim and shall not be in violation of this section.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following language as a new section to be designated as follows:

Section 71-5-140. Any managed care organization participating in the TennCare program shall comply with the provisions of §56-32-237 concerning authorizations given to a medical services provider for care to be delivered to an enrollee receiving TennCare benefits.

SECTION 4. The provisions of this act shall not apply to health plans preempted from state regulation by the Employee Retirement Income Security Act of 1974 ("ERISA").

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect July 1, 2002, the public welfare requiring it.